

SOCIAL SERVICES DEPARTMENT AGENCY REVIEW

Study Assignment

An agency review of the Department of Social Services pursuant to HB 1196.

Summary of Interim

The Department of Social Services Agency Review Committee began its study with an overview of the department. At the first meeting the department provided a comprehensive presentation, including handouts that were compiled in a binder. Secretary James Ellenbecker provided an introduction, which was followed by members of his staff providing an overview of the following programs of the department: child care services; energy assistance; adult services and aging; medical services, including Medicaid and the Children's Health Insurance Program; catastrophic county poor relief; economic assistance, including Temporary Assistance to Needy Families and food stamps; electronic benefits transfer; child support enforcement; and child protection services. The following is a brief description of each of these programs:

- **Child Care Services.** In 1990, Congress enacted the Child Care and Development Block Grant in response to the growing demands for child care and work-family issues. This grant provides funds to states for the purpose of improving the quality, availability, accessibility, and affordability of child care. In 1991, the South Dakota Legislature adopted SDCL 28-1-60, which created the Child Care Services Program and authorized its operation within the Department of Social Services. Activities overseen by the Child Care Services Program include: child care licensing and registration; out-of-school child care programs; early childhood enrichment training programs; child care provider development, retention, and availability programs; health and safety grants; and child care assistance.
- **Energy Assistance.** In 1981, Congress enacted the Low-Income Home Energy Assistance Act. This Act provides funds to states that in turn provide financial assistance to low income households in paying home energy costs. In 1981, the South Dakota Legislature adopted SDCL 28-1-46, which established the Low Income Energy Assistance Program and authorized its operation within the Department of Social Services. The program provides financial assistance to low income households to pay their home heating costs and to make their homes more energy efficient. The program also provides emergency assistance to low income households when there is a heating-related crisis. The program is funded entirely by federal dollars.

An additional activity located within the Office of Energy Assistance is the Community Services Block Grant Program. The Community Services

Block Grant Act was enacted by Congress in 1981. This program provides grants to private nonprofit organizations designated as community action agencies. These agencies develop programs, supports, and services designed to reduce the causes of poverty in South Dakota communities in order to help low income people move toward self-sufficiency.

- **Adult Services and Aging.** This program, designed to carry out the purposes of the Older Americans Act of 1965, provides a comprehensive array of community-based, long-term care services adequate to appropriately sustain older people in their communities and in their homes. Services delivered under the auspices of this program include: congregate meals, home-delivered meals, homemaker services, caregiver support services, transportation services, Rx Access, case management, respite care, assisted living, nursing services, adult day care, adult foster care, information and referral services, legal services, protective services, medication management, assistive devices, health insurance counseling, emergency response systems, and home modifications. For individuals preparing to enter, or currently residing in, nursing facilities, services include pre-admission assessments and ombudsman services.

Additional activities located within this program include the Crime Victim's Compensation Program, which provides payment to victims of violent crimes for crime-related expenses when no other resources are available, and the Domestic Abuse Services Program, which provides funds to communities for women's shelters, law enforcement training, state's attorneys to assist with the prosecution of domestic abuse crimes, and family violence and prevention services.

- **Medical Services.** This program was established to carry out the provisions of Title XIX (Medicaid) and Title XXI (Children's Health Insurance Program). Medicaid is the nation's health insurance program for low-income Americans who meet eligibility requirements. Approximately 31,000 adults currently meet eligibility standards for Medicaid enrollment. Recipients fall into several eligibility aid categories including: SSI recipients (aged, blind, disabled, and nursing home residents who meet financial requirements), members of families eligible for Temporary Assistance for Needy Families (TANF), qualified low income families, low income pregnant women, and women diagnosed with breast or cervical cancer through the Department of Health's All Women Count Program. Approximately 61,621 children are enrolled.

Federal law requires Medicaid to cover inpatient and outpatient hospital services; physician services; medical and surgical dental services; nursing facility services for individuals aged 21 or older; home health care; rural health clinic services; laboratory and x-ray services; nurse-midwife

services; early and periodic screening, diagnosis, and treatment (EPSDT) services for individuals under age 21; children's dental services; and durable medical equipment. The State of South Dakota has chosen to cover the following additional services: nursing facility services for the aged in an institution for mental diseases; intermediate care facility services for the mentally retarded; adult optometric services and eyeglasses; prescription drugs; prosthetic devices; adult dental services (non-medical); hospice care; personal care; and breast or cervical cancer services for the Department of Health's All Women Count Program.

Services are not covered unless they are medically necessary. Over-the-counter drugs, home remedies, food supplements, cosmetic surgery going beyond that which is necessary for improved body functioning, and experimental procedures are not covered under the program.

In order to participate in the Medical Services Program, the provider must have a signed provider agreement with the department. Claims must be submitted within 12 months following the month the services were provided. Under certain circumstances, that period can be extended.

Additional programs include a prior authorization program that requires a determination that the service cannot be provided on an outpatient basis at a lesser cost to the department; a managed care program that requires recipients to select a primary care physician who becomes the gatekeeper of the recipient's needed medical services; a surveillance and utilization review program that is responsible for reviewing paid claims history to identify possible abusive or fraudulent billing activities or excessive utilization; a pharmacist intervention program that allows a payment to a pharmacist if the pharmacist intervenes when dispensing prescriptions and, with the physician's approval, substitutes a less costly medication in place of the medication initially prescribed by the physician; and a maximum allowable cost program that establishes a maximum per unit price for multiple source (generic) drugs.

- **Catastrophic County Poor Relief.** This program was created in 1984 and is codified in SDCL chapter 28-13A. The program allows counties to pool funds and use those funds to provide relief to counties faced with paying medical expenses that exceed \$20,000. The pool is administered jointly by the department and a five-member board of county commissioners. The individual on whose behalf the claim is submitted must meet the eligibility criteria for county poor relief as contained in SDCL chapter 28-13. Reimbursement is limited to 90 percent over the first \$20,000. Each year assessments are levied against each of the participating counties to bring the fund level back up to its operating level.

- **Economic Assistance.** Under the umbrella of Economic Assistance are the following programs: Medical Services Eligibility, Temporary Assistance for Needy Families (TANF), Food Stamps, Quality Control, and Auxiliary Placement.

Temporary Assistance to Needy Families (TANF) is a cash assistance program for needy families. The program places emphasis on promoting self-sufficiency by encouraging employment, strengthening families by increasing parental responsibilities, and reducing long-term dependency on the welfare system. The primary focus of South Dakota's TANF Program is to help families with a parent head-of-household move from welfare to work. To help them reach this goal, intensive services are provided through the TANF Work Program. A family may receive TANF benefits but not be a part of the TANF Work Program if the parent has a severe disability or the child's caretaker is a non-parent caretaker relative.

The Food Stamp Program provides assistance to help low-income households obtain a nutritious diet. These households receive benefits that are used like cash at most grocery stores to ensure that they have access to a healthy diet. Food stamp benefits are used to purchase edible food items for the household and seeds and plants to grow food for the household to eat. A household cannot use food stamp benefits to purchase alcohol, tobacco products, nonfood items, vitamins, medicine, food that will be eaten in the store, or hot foods.

The Quality Control Program, which is a federally-mandated program, reviews Food Stamp and Medicaid cases to evaluate the correctness of eligibility decisions and payment accuracy.

The Auxiliary Placement Program is recognized as the responsible school district for children in the custody of the state. This program provides funding for the education tuition costs at group and residential treatment facilities, including Black Hills Children's Home Society, Sioux Falls Children's Home Society, adjustment training centers, and Children's Care Hospital and School.

- **Electronic Benefits Transfer.** In 1990, Congress amended the Food Stamp Act of 1977 to require the Department of Agriculture to issue regulations establishing electronic benefit transfer (EBT) systems as operational issuance systems to provide food stamp benefits to eligible households. States were required to implement this system before October 1, 2002. South Dakota began implementing its system in May 1992. In 1997, South Dakota expanded its services to include the development of direct deposit or electronic funds transfer as a payment option for recipients and providers in other programs. Currently, six programs utilize direct deposit, including optional state supplement, child

care, assisted living, low income energy assistance, and adult services. A contract modification was completed in 1997 to develop and implement an online medical eligibility verification system using debit card technology. Recipients receive a plastic card that must be presented at each medical visit in order to obtain medical care or to the pharmacy to receive prescriptions. This system eliminated the printing and mailing of monthly paper cards and provides accurate, real-time eligibility information that the provider can use for billing.

- **Child Support Enforcement.** In 1975 as a condition of receiving federal funds for the AFDC (now TANF) program, Congress enacted Part D of the Social Security Act that required every state to operate a single and separate child support enforcement program. The Office of Child Support Enforcement (OCSE) is designed to locate noncustodial parents, establish paternity, establish and modify child support obligations, enforce child and medical support obligations, and collect and distribute child support payments. The department is required to provide these services to cases involving TANF, medical only, and Title IV-E foster care and to any other family upon application for services (non-TANF cases). In addition, the OCSE contracts with several state's attorneys and special assistant attorneys general to provide prosecution services involving civil and criminal circuit court actions involving OCSE cases. The prosecutors represent the OCSE in carrying out its responsibilities to provide the required services of paternity and support order establishment and enforcement of support orders. The OCSE partners with various other state and federal agencies to assist in operating an efficient and effective child support enforcement program. Partner agencies include the Unified Judicial System, the Department of Labor, the Department of Public Safety, the Department of Health, the Department of Game, Fish, and Parks, the Department of Revenue and Regulation, the U.S. Department of Justice, the Federal Parent Locate Service, and professional licensing boards and commissions.
- **Child Protection Services.** The Office of Child Protection Services responds to reports of child maltreatment in order to assess the risk of harm and any threat to the safety of a child. Child Protection strives to assure the safety, permanency, and well-being of any child served by the department. The Office of Child Protection Services embraces the following activities: protective services, central registry of child abuse and neglect, foster care services, licensing, adoption services, independent living services, parent education, school social workers, and intensive family services.

Child Protection Services includes a system under which individuals required to report suspected child abuse or neglect (physicians, dentists, doctors of osteopathy, chiropractors, optometrists, mental health

professionals or counselors, podiatrists, psychologists, religious healing practitioners, social workers, hospital interns or residents, parole or court services officers, law enforcement officers, teachers, school counselors, school officials, nurses, licensed or registered child welfare providers, employees or volunteers of a domestic abuse shelter, chemical dependency counselors, coroners, or any safety-sensitive position as defined in SDCL 23-3-64) as well as anyone who has reasonable cause to suspect that a person under age 18 has been abused or neglected may make a report to the department. The department provides a series of services to children in need of protection, including intake and screening of referrals of child abuse and neglect involving parents, guardians, or custodians.

The Central Registry of Child Abuse and Neglect is the computerized system that provides for the storage and retrieval of names and information regarding persons who have abused or neglected a child.

Foster care is a protective service that the department makes available to children and families who must be separated because of abuse or neglect. Foster care services include matching a child with an appropriate care provider, the development of a case service plan, the supervision of the child in placement, an ongoing evaluation of needs, the determination of any need for changes, planning in relationship to the child's legal custody status, and movement of the child to a permanent living arrangement. Before a child can be placed into any out-of-home setting, a court of competent jurisdiction must assign the child's care, custody, and control to the department. In most cases, tribal courts retain custody but grant placement and care responsibilities to the department.

The Office of Child Protection Services licenses residential treatment centers, group care centers for minors, family foster homes, child placement agencies, maternity homes, and independent living preparation programs. Licensing is intended to reduce the risk to clients in care outside their own homes by establishing and enforcing regulations that require maintenance of minimum standards of care.

Child Protection Services specializes in recruiting, training, and approving adoptive families for adoption placements and adoptive families for special needs children, as well as linking families to post-adoption services. Child Protection Services offers adoptive families maintenance and medical subsidies to assist the family in providing for the special needs of the adopted child. The type and amount of the subsidy is negotiated by the social worker and the adoptive family but cannot exceed basic foster care rates.

The Independent Living Program is designed to assist youth in the custody of the department transition from foster care to self-sufficiency through multiple services in the areas of employment, education, life skills, housing, health, and youth development opportunities. Child Protection Services has implemented an exit interview form as a survey tool that is given to each youth prior to leaving custody or aging out of the system. This provides the department with an opportunity to identify unmet needs and further assess readiness to transition into independent living. The assessment tool is used to determine needs and match those needs with independent living services.

Parent education programs were developed in response to statutory changes which required judges to order parenting education for parents who have abused or neglected their child, have been found guilty of a crime involving domestic violence, or seek protection orders as a result of domestic violence.

The school social worker program promotes healthy families within the school, home, and community by reducing risks and increasing successes for families and children. Social workers are located in 17 elementary schools across the state. These social workers not only work with the children but also work with the families in their homes. Elementary schools are served as a proactive measure.

The Intensive Family Services Program is a multi-departmental effort of various state agencies to provide an opportunity to families whose children are under the jurisdiction of the Department of Corrections to address issues and access needed services. This service enables the Department of Corrections to utilize recommendations from Child Protection Services' social workers as they attempt to locate the most appropriate aftercare placement for youth coming out of residential placements such as boot camp.

The second meeting included a presentation by the Department of Social Services on Medicaid, CHIP (Children's Health Insurance Program), and TANF (Temporary Assistance to Needy Families). The presentation included a breakdown of the medical services programs that are mandatory and those that are optional under federal law, as well as the number of individuals covered under the various programs. The department discussed the TANF caseload, the changes in the TANF program, and the TANF reauthorization legislation that is currently before Congress. The meeting also included public testimony and a tour of the administrative offices of the Department of Social Services located in the Kneip Building.

The committee requested the following additional reports of the department, which were received at the third meeting:

- (1) A report providing statistical information regarding the families leaving TANF; and
- (2) A report containing a list of the different programs administered by the department, the federal/state share of dollars for each program, and the numbers served.

At its conclusion, the committee recommended that the department be continued, having found the department met the burden of establishing sufficient public need is present to justify its continued existence.

Listing of Legislation Adopted

An Act to update and revise certain provisions pertaining to the Department of Social Services.

This Act revises awkward or archaic language; deletes statutes that are no longer used or are inconsistent with current practice; and amends statutes that are gender specific to provide gender-neutral terms.

Summary of Meeting Dates & Places and Listing of Committee Members

The committee met on June 12 and August 11 in the State Capitol in Pierre. The committee also met by teleconference on September 30.

Committee members were: Senator Larry Diedrich, Chair, Representative Don Van Etten, Vice Chair; Senators Jerry Apa, Brock Greenfield, Clarence Kooistra, and Ed Olson; and Representatives Stanford Adelstein, Rebekah Craddock, Larry Frost, Jean Hunhoff, Ted Klaudt, Claire Konold, Kathy Miles, Gordon Pederson, Tim Rave, David Sigdestad, Bill Thompson, and Thomas Van Norman.

Staff members were: Jacquelyn Storm, Principal Legislative Attorney; Sue Cichos, Senior Fiscal Analyst; and Teri Retrum, Senior Legislative Secretary.